DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. ***20554***

In the Matter of)
)
ITA Informal Request for Certification)
To Coordinate the Power Radio Service,)
Railroad Radio Service,)
And Automobile Emergency Radio Service)
Under Part 90 of the Commission's Rules)
Commission's Rules to)
)

To: Chief, Wireless Telecommunications Bureau

Informal Request for Certification of the
Industrial Telecommunications Association. Inc.

The Industrial Telecommunications Association (ITA), pursuant to Section **1.41'** of the Commission's rules, hereby respectfully submits an Informal Request for Certification to coordinate and certify the power, railroad, and automobile emergency radio services currently available under **Part** 90 of the Commission's rules.[2]

I. Statement of Interest

ITA is a Commission-certified frequency advisory committee coordinating in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate business and industrialfland transportation radio stations on frequency assignments allocated between 30-900 MHz.

---

[1] 47 C.F.R. § 1.41. In the event that the Commission believes a rulemaking proceeding is necessary, **ITA** requests that the Commission treat this filing as a Petition for Rulemaking under Section 1.401 of its rules.

[2] 47 **C.F.R.** § 90.35 (b).

WTB

ITA enjoys the support of a broad membership including more than 3,500 licensed two-way land mobile radio communications users, private mobile radio service (PMRS) oriented radio dealer organizations, and the following trade associations:

Alliance of Motion Picture and Television Producers
Aeronautical Radio, Inc.
Associated Builders & Contractors, Inc.
Florida Citrus Processors Association
Florida Fruit & Vegetable Association
National Mining Association
National Propane Gas Association
National Ready-Mixed Concrete Association
National Utility Contractors Association
New England Fuel Institute
United States Telephone Association

In addition, ITA is affiliated with the following independent market councils: the Council of Independent Communication Suppliers (CICS), the Taxicab & Livery Communications Council (TLCC), the Telephone Maintenance Frequency Advisory Committee (TELFAC), and USMSS, Inc.

II. Background

On April 15, 1986, the Commission released a ***Report and Order*** (1986 Order) delineating a coordination system in which a designated frequency coordinator would be required to coordinate frequencies for users seeking channels in the 20 different private radio service pools.[3] The Special Industrial Radio Service Association (SIRSA, ITA's predecessor) became the frequency coordinator for the Special Industrial Radio Service in the traditional private radio bands,[4] as well as the sole coordinator for the Industrial and Land Transportation pool in the 800

[3] Frequency Coordination in the Private Land Mobile Radio Services, ***Report and Order,*** PR Docket No. 83-737 (rel. **Apr.** 15, 1986) (1986 Order).

[4] 1986 Order at ¶ 85.

MHz band.[5]

On March 12, 1997, the Commission released a ***Second Report Order*** consolidating the private land mobile radio service into two pools, public safety eligibles and industrialbusiness eligibles, to introduce competition! Frequency coordinators whose prior radio services were in the industrialbusiness pool could coordinate new applications for entities seeking channels in the new consolidated industrialbusiness pool, with the exception of power, railroad, and automobile emergency channels? New applications on these channels would continue to be coordinated by their respective frequency coordinator and now requires the concurrence of that coordinator to certify any application.

In the Refarming 2nd R&O, the Commission specifically recognized the benefits of increased competition in coordination services, such as reduced costs, increased speed-of-service, and better services to the applicants seeking industrialbusiness channels.* More recently, the Commission recognized the benefits of competitive coordination services at 800 MHz and 900 MHz by opening up coordination in both the business and industrialfland transportation pools to ITA, MRFAC, Inc. (MRFAC), Personal Communications Industry Association (PCIA), the United Telecom Council (UTC), and subsequently to the Forest Industries Telecommunications (FIT) and the American Mobile Telecommunications Association, Inc. (AMTA).[9]

---

5 1986 Order at ¶ 108.

6 Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services, Second Report and Order, PR Docket No. 92-235 (rel. Mar. 12, 1997) (Refarming 2nd R&O).

7 Refarming 2nd R&O at ¶ 20, 40-42.

8 Refarming 2nd R&O at ¶ 40.

9 See, United Telecom Council Informal Request for Certification as a Frequency Coordinator in the PLMR 800 MHz and 900 MHz Bands, Order, DA 01-944 (rel. Apr. 18, 2001) which certified ITA,

III. Discussion

ITA believes the Wireless Telecommunications Bureau (Bureau) has jurisdiction to act on delegated authority and certify ITA as a frequency coordinator in the power, railroad, and automobile emergency radio services. Noting ITA's qualifications, such as its representativeness of the users of the frequencies in question, its overall coordination duties, its experience and expertise, and its ability to coordinate on a nationwide basis, the Commission should proceed in the public interest by certifying ITA to perform frequency coordination for these services in the private land mobile radio (PLMR) bands.

A. The Bureau May Proceed under Delegated Authority on an *Ad Hoc* Basis Rather Than Initiating a Rulemaking Proceeding

In the Order certifying ITA, MRFAC, PCIA and UTC to coordinate business and industrial/land transportation channels at 800 and 900 MHz (800/900 Order), the Bureau noted,

> "that the Commission has delegated to the Wireless Telecommunications Bureau the authority to certify frequency coordinators under Sections 0.131(m) and 0.331 of the Commission's Rules. Section 0.131(m) lists, as Bureau functions: '[c]ertifies frequency coordinators; considers petitions seeking review of coordinator actions; and engages in oversight of coordinator actions and practices.'"[10]

MRFAC, PCIA and UTC to coordinate 800 MHz and 900 MHz business and industrial/land transportation frequencies (800/900 Order). **See *also,*** Wireless Telecommunications Bureau Announces that Forest Industries Telecommunications is Certified as a Frequency Coordinator for 800/900 MHz Business and Industrialkand Transportation Frequencies, ***Public Notice,*** DA **01-1474** (rel. Jun. 22, 2001). **See *also,*** Wireless Telecommunications Bureau Announces that American Mobile Telecommunications Association, Inc., is Certified as a Frequency Coordinator **for** 800/900 MHz Business and Industrial/Land Transportation Frequencies, ***Public Notice,*** DA 01-1537 **(rel.** Jun. **29,** 2001).

10 800/900 Order at ¶ **7.** See also, 47. C.F.R. § 0.131(m).

The Bureau further stated that, Section 0.331 of the rules delegates authority to "perform all Bureau functions, described in § 0.131" that do not involve "new or novel questions of law or policy which cannot be resolved under outstanding Commission precedents or guidelines.""

The requested action does not call new or novel questions of law into play, and merely suggests that the Commission exercise its discretion to certify a frequency coordinator under Section 0.131(m) of its rules. Moreover, the Commission recently confirmed the Bureau's delegated authority in a proceeding seeking to certify a coordinator for the Wireless Medical Telemetry Service.[12]

B. ITA is Qualified to Coordinate Power, Railroad and Automobile Emergency Radio Services under Part 90 of the Commission's Rules

In the 1986 Order, coordinators were certified for coordination in the PMRS bands based on the following criteria:"

- Providing coordination services on a non-discriminatory basis;
- Reviewing applications for coordination;
- Processing applications in order of receipt;
- Filing coordinated applications;
- Handling post-licensing conflicts involving frequency selection;"

---

11 800/900 Order at ¶ 7. See also, 47 C.F.R. § 0.331.

12 See Amendment of Parts 2 and 95 of the Commission's Rules to Create a Wireless Medical Telemetry Service, Report and Order, ET Docket No. 99-255 (rel. Feb. 23, 2001) at ¶ 36.

13 1986 Order at ¶ 53.

14 ITA strongly urges the Commission to mandate that all FCC-certified frequency advisory committees assist the Commission in post application certification interference resolution matters. In 1998, ITA signed a Memorandum of Understanding with the Compliance and Information Bureau (now the Enforcement Bureau) whereby **ITA** acts as the first level arbitrator and attempts to resolve compliance and interference complaints. In the event the matter cannot be resolved, **ITA** forwards the matter to the Enforcement Bureau **for** resolution. It is ITA's belief that all FCC-certified frequency advisory committees should have a similar Memorandum of Understanding with the Enforcement Bureau as part of the certification process. To ITA's knowledge, only three FCC-certified frequency advisory committees have entered into Memorandums of Understanding with the Commission to date: **ITA,** APCO, and AAR. We also understand that the LMCC is currently working with the Commission on this matter.

- Responding to coordination requests and applications in a timely manner;
- Recommending the most appropriate frequency;
- Handling inter-service sharing requests;
- Maintaining reasonable and uniform fees;
- Establishing a national, single point of contact;
- Facilitating the use of new technologies;
- Deny applicants seeking frequencies presently encumbered until such records are dropped from the Commission's database."

In the 800/900 MHz Order opening up competition in the business and industrialfland transportation pools, the Commission established four criteria for FAC-certification at 800 and 900 MHz:

> "(a) representativeness of the users of the frequencies to be coordinated, (b) the entity's overall coordination plan (including how recommendations would be made and equality of applicant treatment), (c) the entity's experience coordinating frequencies in the service or technical expertise, and (d) its nationwide coordination capability."[16]

The Commission found that ITA met all the requirements above for the Special Industrial Radio Service and in the 800 MHz industrial/land transportation pool in 1986. ITA also believes it now meets the criteria for FAC-certification of the power, railroad and automobile emergency radio service channels.

1. Representativeness of the Users of the Frequencies to be Coordinated

It is easy to see, from the aforementioned "Statement of Interest" that ITA benefits from a membership including a large cross-section of the private land mobile industry. Both ITA's members and clients are engaged in, or provide vital communications for entities with a need to keep employees and the public free from harm. Many of these clients include power, railroad,

---

[15] See Amendment of Parts 1 and 90 of the Commission's Rules Concerning Construction, Licensing and Operation of Private Land Mobile Radio Services, ***Memorandum Opinion and Order,*** PR Docket No. 90481 (rel. Sept. 13, 1993) at ¶ 5.

and automobile .emergency eligibles that use their communication systems for safety-of-life operations on a daily basis in services that **ITA** now seeks certification to coordinate.

The Commission, when deciding not to include the power, railroad, and automobile emergency services as services that can be coordinated by any of the I/B coordinators, did so with the reasoning that, "critical communications capabilities can be protected by the coordinator who is intimately familiar with the use of these frequencies."" **ITA** believes we are "intimately familiar," not only with these frequencies, but also with these applicants.

2. Overall Coordination Plan

Many of the communications systems used by the power, railroad. and automobile emergency entities are identical to the systems that **ITA** has and continues to coordinate for our members and clients. To broaden **our** current coordination authorization to include these services would be an extension of the work we are currently performing. These services will be coordinated based on ITA's in-house coordination software that effectively calculates the interfering and service area contour for every existing and proposed land mobile radio system. The system determines which frequency will be best for the proposed system and allows an **ITA** spectrum manager to affirm or reject the system's decision. After the selection process is complete, a Form 601 is electronically submitted to the Commission.

ITA is continuously uploading information from the Commission's ULS database, as well as communicating with other frequency coordinators, to exchange information. **As** noted by the Commission, "the existence and development of the ULS has increased cooperation among all

16 800/900 MHz Order at ¶ 10.
17 Refarming 2nd R&O at ¶ 17.

FCC-certified frequency coordinators... the ULS has made it easier for coordinators to communicate and to share information."[18] The ULS database has made the sharing of information among frequency coordinators effortless and ITA believes it would enable ITA to successfully coordinate these services as well. Moreover, because power, railroad, and automobile emergency coordinators will be receiving notification of certifications on these channels, these coordinators will have the opportunity to review, and object if necessary, to a specific coordination they feel threatens incumbent licensees.

3. Experience Coordinating Frequencies in the Service or Technical Expertise

Founded in 1953, ITA **(SIRSA** at the time) quickly began providing a multitude of services to eligibles in the special industrial radio service, including frequency coordination and engineering/technical expertise among other services." As noted earlier, **ITA** files over 6,000 applications on an annual basis with impeccable accuracy and one of the fastest speeds of service in the industry. **As** the preferred frequency coordinator for numerous B/ILT and traditional SMR licensees, ITA seeks Commission authority to further serve the PLMR community through an authorization to coordinate and certify channels in the power, railroad, and automobile emergency services.

ITA's technical experience already includes frequency coordination services for the petroleum industry. ITA has been responding to concurrence requests on petroleum channels, through a contractual agreement with American Petroleum Institute, since the mid-1980's. In

---

[18] **See,** Amendment of Section 90.20 and 90.175 of the Commission's Rules for Frequency Coordination of Public Safety Frequencies in the Private Land Mobile Radio Below-470 MHz Band, ***Notice of Proposed Rulemaking,*** WT Docket No. 02-285, (rel. Sept. 19, 2002) at ¶ 12.

[19] For example, ITA now provides licensing preparation services that are beneficial to all applicants, including our public safety members, and interference resolution services to anyone seeking

that time, ITA has coordinated the use of petroleum channels with just as much diligence as any other channel sought for safety-of-life operations. The Commission states, "radio is used as a critical tool for responding to emergencies that could impact hundreds or even thousands of people...Any failure on their ability to communicate by radio could have severe consequences on the public welfare."[20]

ITA's many years of experience coordinating the exclusive-use petroleum channels sufficiently demonstrates the necessary technical expertise needed to coordinate the power, railroad, and automobile emergency channels. ITA believes that these channels should retain exclusive-use by their current eligibility groups, and simply requests the authority to coordinate their applications. ITA possesses the technical experience to meet the Commission's requirements and applicant's needs for certification to coordinate the power, railroad, and automobile emergency services.

4. ITA has Demonstrated a Nationwide Coordination Capability

ITA, as well as its predecessor, SIRSA, has been providing coordination services on a nationwide basis without any geographical prejudice. ITA continues to operate under this same philosophy today. ITA uses established coordination and engineering practices in conjunction with our frequency coordination computer programs to meet the needs of our customers all over the country including, border regions, rural areas and densely populated metropolitan regions.

ITA recognizes that our past and future successes in providing frequency coordination are dependant on our respectability, accuracy and timeliness of services provided. The Commission

---

[20] Refarming Second R&O at ¶ 41.

officially certified **SIRSA** to coordinate applications in the Special Industrial Radio Service based on its representativeness, expertise and experience?' **ITA** continues to demonstrate and improve upon these same qualities on a daily basis. Due to our need to stay competitive **ITA** is required to provide the most economical, effective and efficient service for our customers in order to retain their business.

C. Certification of ITA to Coordinate and Certify the Power, Railroad and Automobile Emergency Radio Services is in the Public Interest

As the Commission noted in the 800/900 MHz Order, its "experience since [1997] indicates that the introduction of competitive PLMR coordination generally has been successful," and further stating that, "we find it in the public interest to expand competition among certified coordinators to the 800 and 900 MHz PLMR frequencies."" competition in frequency coordination could be introduced when a majority of communications systems in the radio services "are used in a similar fashion—for support of day-to-day business activities."[23]

Competition, as the Commission is well aware, sparks faster coordination and reduced costs for applicants. Through this certification we are not trying to open **use** of these channels to all industrial/business applicants; we simply seek competitive coordination of these channels to reduce costs and increase speed-of-service for power, railroad and automobile emergency applicants. The Commission states, "we agree...that a coordination monopoly is unnecessary to protect licensees from harmful interference and that competition amongst the frequency coordinators is generally preferable, as it will result in better service to the public."[24] **By**

---

21 1986 Order at ¶ 85.

22 800/900 MHz Order at ¶ 6.

23 Refarming 2nd R&O at ¶ 40.

24 ***See,*** In the Matter of 1998 Biennial Regulatory Review – **47** C.F.R. **Part 90** – Private Land

eliminating the need for concurrence the Commission will be increasing speed-of-service and deceasing the cost for applicants since only one coordinator would be necessary to "touch" the application.

Competitive frequency coordination among I/B coordinators, since the consolidation of the PLMR services, has been beneficial to the licensees and the Commission. "This [two-pool structure] in turn allows users to get on the air sooner as well as saves them from having to pay more than one coordination fee."[25] **ITA** urges the Commission to permit **ITA** to compete with the designated coordinators of the power, railroad, and automobile emergency radio services to offer these applicants increased speed-of-service, decreased costs and better service for the customer. The Commission also states, "PLMR service consolidation.. .reduces administrative burdens on users and the Commission."[26] The benefits that have been realized for the entities in the consolidated industrialbusiness pool can be realized by the power, railroad and automobile emergency radio services. Noting that competitive coordination services are in the public interest, the Commission should authorize **ITA** to perform frequency coordination services for the power, railroad and automobile emergency radio services.

IV. Conclusion

ITA has demonstrated that it meets the criteria set forth by the Commission to be a

---

Mobile Radio Services, ***Memorandum Opinion and Order and Second Report and Order,*** WT Docket No. 98-182, (rel. May 23, 2002) at ¶ **57. ITA** supports the Commission's statement that there is no additional protection afforded to applicants by having **just** one authorized coordinator **for** any specific service. The same, basic, established engineering and coordination practices are used **for** coordinating all the services found in the industrial/business pool, regardless of the specific service being coordinated.

25 See, Refarming Second R&O, at ¶ 19.

26 See, Refarming Second R&O ¶ **15.**

certified frequency coordinator for the power, railroad, and automobile emergency channels. ITA has an extensive and varied assembly of members and clients, including the very eligibles that we currently seek certification to coordinate. ITA currently has the ability to coordinate these channels and the means of information exchange through ULS.

The benefits of competitive coordination have already been seen in other services and ITA urges the Commission to allow those benefits be realized by the power, petroleum, railroad and automobile emergency service applicants by certifying ITA to coordinate these services. **We** therefore, request that the Commission certify ITA to coordinate channels in these services without the need for concurrence by its currently designated coordinator.

Respectfully submitted,

INDUSTRIAL TELECOMMUNICATIONS
ASSOCIATION, INC.
1110 N. Glebe Road, Suite 500
Arlington, Virginia 22201
(703) 528-5115

By: /s/ Jeremy Denton

Jeremy Denton
Director, Government Affairs

/s/ Robin Landis

Robin Landis
Regulatory Affairs Assistant

January 27, 2003

CERTIFICATE OF SERVICE

I, Jeremy Denton, do hereby certify that on the 27th day of January 2003, I forwarded to the parties listed below a copy of the foregoing Comments of the Industrial Telecommunications Association, Inc. via hand delivery:

Bryan Tramont, Esq.
Senior Legal Advisor
Office of Chairman Michael K. Powell
445 12th Street, SW, 8-B201
Washington, DC 20554

Sam Feder, Esq.
Legal Advisor
Office of Commissioner Kevin J. Martin
445 12th Street, SW, 8-C302
Washington, DC 20554

Jennifer A. Manner, Esq.
Senior Legal Advisor
Office of Commissioner Kathleen Q. Abernathy
445 12th Street, SW, 8-A204
Washington, DC 20554

Paul Margie, Esq.
Legal Advisor
Office of Commissioner Michael J. Copps
445 12th Street, SW, 8-A302
Washington, DC 20554

Barry Ohlson, Esq.
Interim Legal Advisor
Office of Commissioner Jonathan S. Adelstein
445 12th Street, SW, 8-B115
Washington, DC 20554

Marlene H. Dortch, Esq.
Secretary
445 12th Street, SW, Room TW-325
Washington, DC 20554

Thomas J. Sugrue, Esq.
Chief, Wireless Telecommunications Bureau
445 12th Street, SW, Room 3-C252
Washington, DC 20554

Kathleen Ham, Esq.
Deputy Chief
Wireless Telecommunications Bureau
445 12th Street, SW, Room 3-C255
Washington, DC 20554

D'wana R. Terry, Esq.
Chief, Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
445 12th Street, SW, Room 4-C321
Washington, DC 20554

Mr. Herbert W. Zeiler
Deputy Chief, Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
445 12th Street, SW, Room 4-C343
Washington, DC 20554

Ramona E. Melson, **Esq.**
Deputy Chief, Public Safety & Private Wireless Division
Wireless Telecommunications Bureau
445 12'' Street, SW, Room 4-C237
Washington, DC 20554

Qualex International
Portals II
445 12th Street, SW, Room CY-B402
Washington, DC 20554

/s/ Robin Landis

Robin Landis